

# Multiple Agency Fiscal Note Summary

|                                   |                                      |
|-----------------------------------|--------------------------------------|
| <b>Bill Number:</b> 5034 2S SB PL | <b>Title:</b> Private infrastructure |
|-----------------------------------|--------------------------------------|

## Estimated Cash Receipts

| Agency Name                             | 2011-13   |                | 2013-15   |                | 2015-17   |               |
|---|-----------|----------------|-----------|----------------|-----------|---------------|
|   | GF- State | Total          | GF- State | Total          | GF- State | Total         |
| Utilities and Transportation Commission | 0         | 168,768        | 0         | 105,645        | 0         | 73,357        |
| <b>Total \$</b>                         | <b>0</b>  | <b>168,768</b> | <b>0</b>  | <b>105,645</b> | <b>0</b>  | <b>73,357</b> |

## Estimated Expenditures

| Agency Name                             | 2011-13    |            |                  | 2013-15    |            |                  | 2015-17    |            |                 |
|---|------------|------------|------------------|------------|------------|------------------|------------|------------|-----------------|
|   | FTEs       | GF-State   | Total            | FTEs       | GF-State   | Total            | FTEs       | GF-State   | Total           |
| Administrative Office of the Courts     | .0         | 0          | 0                | .0         | 0          | 0                | .0         | 0          | 0               |
| Utilities and Transportation Commission | .8         | 0          | 168,768          | .5         | 0          | 105,645          | .3         | 0          | 73,357          |
| Department of Health                    | .0         | 0          | 0                | .0         | 0          | 0                | .0         | 0          | 0               |
| Department of Ecology                   | .0         | 0          | 0                | .0         | 0          | 0                | .0         | 0          | 0               |
| <b>Total</b>                            | <b>0.8</b> | <b>\$0</b> | <b>\$168,768</b> | <b>0.5</b> | <b>\$0</b> | <b>\$105,645</b> | <b>0.3</b> | <b>\$0</b> | <b>\$73,357</b> |

|                     |   |  |  |  |  |  |  |  |  |
|---------------------|---|--|--|--|--|--|--|--|--|
| Local Gov. Courts * |   |  |  |  |  |  |  |  |  |
| Local Gov. Other ** | Non-zero but indeterminate cost. Please see discussion. |  |  |  |  |  |  |  |  |
| Local Gov. Total    |   |  |  |  |  |  |  |  |  |

## Estimated Capital Budget Impact

NONE

|  |                               |                                 |
|--|-------------------------------|---------------------------------|
| <b>Prepared by:</b> Alyson Cummings, OFM | <b>Phone:</b><br>360-902-0576 | <b>Date Published:</b><br>Final |
|--|-------------------------------|---------------------------------|

\* See Office of the Administrator for the Courts judicial fiscal note

\*\* See local government fiscal note

FNPID 30123

FNS029 Multi Agency rollup

# Judicial Impact Fiscal Note

|                                   |                                      |   |
|-----------------------------------|--------------------------------------|---|
| <b>Bill Number:</b> 5034 2S SB PL | <b>Title:</b> Private infrastructure | <b>Agency:</b> 055-Admin Office of the Courts |
|-----------------------------------|--------------------------------------|---|

## Part I: Estimates



No Fiscal Impact

*The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be*

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.

|                                 |                       |                  |
|---------------------------------|-----------------------|------------------|
| Contact                         | Phone:                | Date: 04/22/2011 |
| Agency Preparation: Julia Appel | Phone: (360) 705-5229 | Date: 04/25/2011 |
| Agency Approval: Dirk Marler    | Phone: 360-705-5211   | Date: 04/25/2011 |
| OFM Review: Cherie Berthon      | Phone: 360-902-0659   | Date: 04/25/2011 |

Request # -1

**Part II: Narrative Explanation**

**II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts**

Provisions in several sections of this bill have the potential to result in additional actions in superior court. However, as the commission reports that only three water companies have been placed in receivership since 1992, it is assumed that the impact will be minimal.

**II. B - Cash Receipts Impact**

**II. C - Expenditures**

**Part III: Expenditure Detail**

**Part IV: Capital Budget Impact**

# Individual State Agency Fiscal Note

|                                   |                                      |  |
|-----------------------------------|--------------------------------------|--|
| <b>Bill Number:</b> 5034 2S SB PL | <b>Title:</b> Private infrastructure | <b>Agency:</b> 215-Utilities and Transportation Comm |
|-----------------------------------|--------------------------------------|--|

## Part I: Estimates

☐

No Fiscal Impact

### Estimated Cash Receipts to:

| ACCOUNT   | FY 2012 | FY 2013 | 2011-13 | 2013-15 | 2015-17 |
|---|---------|---------|---------|---------|---------|
| Public Service Revolving Account-State<br>111-1 | 87,594  | 81,174  | 168,768 | 105,645 | 73,357  |
| <b>Total \$</b>                                 | 87,594  | 81,174  | 168,768 | 105,645 | 73,357  |

### Estimated Expenditures from:

|   | FY 2012 | FY 2013 | 2011-13 | 2013-15 | 2015-17 |
|---|---------|---------|---------|---------|---------|
| FTE Staff Years                                 | 0.8     | 0.7     | 0.8     | 0.5     | 0.3     |
| <b>Account</b>                                  |         |         |         |         |         |
| Public Service Revolving<br>Account-State 111-1 | 87,594  | 81,174  | 168,768 | 105,645 | 73,357  |
| <b>Total \$</b>                                 | 87,594  | 81,174  | 168,768 | 105,645 | 73,357  |

### Estimated Capital Budget Impact:

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates,*

Check applicable boxes and follow corresponding instructions:

☒

If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐

If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐

Capital budget impact, complete Part IV.

☒

Requires new rule making, complete Part V.

|                                   |                     |                  |
|-----------------------------------|---------------------|------------------|
| Legislative Contact:              | Phone:              | Date: 04/22/2011 |
| Agency Preparation: Michael Young | Phone: 360-664-1155 | Date: 04/26/2011 |
| Agency Approval: Sondra Walsh     | Phone: 360-664-1286 | Date: 04/26/2011 |
| OFM Review: Alyson Cummings       | Phone: 360-902-0576 | Date: 04/26/2011 |

Request # 11-54-1

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

This version of the measure as passed does not add any fiscal impact to the UTC.

The previous amendment:

- (1) Clarifies in what circumstances the bond or equivalent surety is payable to the Utilities and Transportation Commission (UTC);
- (2) Restructures the provisions concerning the appointment of a court-ordered receiver to clarify the role of the UTC and the court;
- (3) Requires the petition for a court-appointed receiver to be filed in Thurston County;
- (4) Removes the provision making the bill effective only if the UTC receives legislative approval of the regulatory fees proposed by the UTC (and removes the reporting notice associated with this contingency);
- (5) Modifies the rule-making authority of the UTC granted by the bill; and
- (6) Makes technical changes to improve grammatical structure and organization and provide consistency between terms and sections.

These changes will not have a fiscal impact on the UTC.

Previous amendments have:

- (1) Added new language to sections 5(8) and 6(9) that states:

“However, a private entity must obtain authorization from the city, town, or county with jurisdiction over the subject property after the legislative authority of the city, town, or county has passed an ordinance requiring that property be taken for public use.”

This does not create any fiscal impact for the UTC.

- (2) Changed section 29 to authorize the UTC to collect payments from wastewater companies and other private entities in a proportionate share of the cost of the rulemaking which is \$87,594.

The bill does not specify which account the payments would be deposited into, nor from which account the appropriation for the rulemaking would come.

This measure requires that a wastewater company not own and operate or contract to operate a system of sewerage for compensation without first having obtained from the UTC a certificate of public convenience and necessity.

Section 3 of the legislation establishes factors the Commission must consider when determining whether to issue the certificate, including a requirement the company file and continuously maintain a bond or an equivalent surety. The Commission is responsible for enforcing the bond.

Section 4 grants the UTC authority to establish fees to cover the costs of the program, and to adopt and issue rules and

regulations to implement the section.

Section 5 authorizes the UTC to determine that a wastewater company is unfit to provide service and to order the transfer of its systems to a capable and willing company. The section establishes procedures and requirements for the action.

Section 6 authorizes the UTC to petition the court to place a failed wastewater company into receivership and establishes procedures and requirements for the UTC and the municipal corporation or private company that the court orders to purchase the system of sewerage owned by the failed company.

Section 29 authorizes the UTC to adopt rules prior to July 1, 2012, that are necessary to implement the law, which goes into effect (Section 32) on July 1, 2012. The section also authorizes the UTC to collect payments from wastewater companies and other private entities that have notified the Commission of their willingness to cover the costs of the implementation rulemaking. The Commission is not required to engage in rulemaking until it has collected sufficient payments to cover the projected cost.

Section 32 provides an effective date for the sections of the bill other than Section 29, the effective date being July 1, 2012.

The remaining sections incorporate wastewater companies into the general regulatory laws of the UTC, including rate and service regulation.

## **II. B - Cash receipts Impact**

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

The amendment changes section 29 to authorize the UTC to collect payments from wastewater companies and other private entities in a proportionate share to recover the cost of the rulemaking in FY2012, which is \$87,594.

The bill does not specify which account the payments would be deposited into. For purposes of this fiscal note it is assumed that payments received from wastewater companies and other private entities to cover the cost of the rulemaking would be deposited into the Public Service Revolving account.

Section 4 authorizes the UTC to establish fees to recover the cost of regulation. The UTC will determine the basis (e.g. revenue, authority application, etc.) and amount of fee in a rulemaking. The fees will be set to recover the estimated costs of implementing the regulatory program set forth in Section II(C) Expenditures.

## **II. C - Expenditures**

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

Section 29 establishes a cost-recovery mechanism relying on wastewater companies and other private entities interested in the program being established. The UTC must receive an appropriation to conduct the required rulemaking to establish

a new chapter in WAC 480 of general regulatory rules for the wastewater industry and to set appropriate regulatory fees.

The bill does not specify from which account the appropriation for the rulemaking would come. For purposes of this fiscal note it is assumed that the appropriation authority would be granted from the Public Service Revolving account.

The legislation will require a complex rulemaking to establish a new chapter in WAC 480 of general regulatory rules for the wastewater industry and to set appropriate regulatory fees. The addition of wastewater companies will expand the scope of regulation into an area the UTC has not previously regulated as a utility; therefore we expect the rulemaking to be complex. As an integral part of the rulemaking, the agency will have to rewrite its procedure and audit manuals, create forms and databases, and familiarize staff with the changes required to regulate this industry. The rulemaking will take place in FY2012, and we estimate we will require 1580 hours of effort and cost \$87,594. After the agency and companies have experienced operating under the new program, an additional simple rulemaking will be conducted to adopt amendments to the rules as needed. That rulemaking will take place in FY2015 and we estimate it will require 338 hours of effort and cost \$19,172.

For the purpose of this fiscal note, the UTC understands that there are at least four (4) companies that may apply for a certificate, and the UTC assumes that four companies will apply for a certificate in FY 2013. Additional companies may enter the market after the program has functioned for a time, and so the UTC assumes two (2) additional certificate applications in the 2014-2015 biennium and two (2) in the 2016-2017 biennium. We estimate that each application for a certificate of convenience and necessity and rate analysis will require 385 hours of effort and cost \$20,292.

The UTC assumes that four (4) rate cases will be filed in FY2015, two (2) rate cases will be filed in FY2016 and one rate case will be filed in FY2017, requiring 200 hours of effort and costing \$10,925 per rate case.

Section 5 authorizes the UTC to order the sale of an unfit wastewater system to another company for operation. Such a transfer would require a complex adjudication.

The UTC does not expect the companies to “fail” within the time frame of this fiscal note, given the lead time required for the agency to adopt rules, the companies to acquire a UTC certificate and all of the necessary permits from state and local agencies, and the companies to build and begin operating a system.

Thus, a cost estimate is not provided.

Section 6 authorizes the UTC to petition a court to place a wastewater company into receivership. The cost of a receivership will vary considerably depending on the complexity of the situation and whether the receivership process is contested. The UTC does not expect the companies to “fail” within the time frame of this fiscal note, given the lead time required for the agency to adopt rules, the companies to acquire a UTC certificate and all of the necessary permits from state and local agencies, and the companies to build and begin operating a system. Thus, a cost estimate is not provided. As a point of comparison, three (3) UTC regulated water companies have been put into receivership in the past twenty years.

## Part III: Expenditure Detail

### III. A - Expenditures by Object Or Purpose

|                                      | FY 2012  | FY 2013  | 2011-13   | 2013-15   | 2015-17  |
|--------------------------------------|----------|----------|-----------|-----------|----------|
| FTE Staff Years                      | 0.8      | 0.7      | 0.8       | 0.5       | 0.3      |
| A-Salaries and Wages                 | 54,156   | 50,731   | 104,887   | 65,526    | 45,373   |
| B-Employee Benefits                  | 11,373   | 10,654   | 22,027    | 13,763    | 9,526    |
| C-Personal Service Contracts         |          |          |           |           |          |
| E-Goods and Services                 | 22,065   | 19,789   | 41,854    | 26,356    | 18,458   |
| G-Travel                             |          |          |           |           |          |
| J-Capital Outlays                    |          |          |           |           |          |
| M-Inter Agency/Fund Transfers        |          |          |           |           |          |
| N-Grants, Benefits & Client Services |          |          |           |           |          |
| P-Debt Service                       |          |          |           |           |          |
| S-Interagency Reimbursements         |          |          |           |           |          |
| T-Intra-Agency Reimbursements        |          |          |           |           |          |
| 9-                                   |          |          |           |           |          |
| <b>Total:</b>                        | \$87,594 | \$81,174 | \$168,768 | \$105,645 | \$73,357 |

### III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

| Job Classification                        | Salary  | FY 2012 | FY 2013 | 2011-13 | 2013-15 | 2015-17 |
|---|---------|---------|---------|---------|---------|---------|
| Administrative Assistant 4                | 48,168  | 0.0     | 0.0     | 0.0     | 0.0     | 0.0     |
| Administrative Law Judge                  | 93,804  | 0.1     | 0.0     | 0.1     | 0.0     | 0.0     |
| Assistant Director, Water and Solid Waste | 89,760  | 0.1     | 0.1     | 0.1     | 0.0     | 0.0     |
| Consumer Program Specialist 3             | 55,836  | 0.2     | 0.2     | 0.2     | 0.1     | 0.1     |
| Deputy Assistant Director for Water       | 74,448  | 0.1     |         | 0.0     | 0.0     |         |
| Director of Regulatory Services           | 98,304  | 0.0     |         | 0.0     | 0.0     |         |
| Legal Secretary 1                         | 39,516  | 0.0     | 0.0     | 0.0     | 0.0     | 0.0     |
| Regulatory Analyst 3                      | 68,016  | 0.3     | 0.4     | 0.3     | 0.3     | 0.2     |
| Senior Policy Advisor                     | 80,796  | 0.1     | 0.1     | 0.1     | 0.1     | 0.0     |
| <b>Total FTE's</b>                        | 648,648 | 0.8     | 0.7     | 0.8     | 0.5     | 0.4     |

## Part IV: Capital Budget Impact

NONE

## Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

The legislation will require a complex rulemaking to establish a new chapter in WAC 480 of general regulatory rules for the wastewater industry and to set appropriate regulatory fees.

After the agency and companies have experience operating under the new program, an additional simple rulemaking will be conducted to adopt amendments to the rules as needed. That rulemaking will take place in FY2015.



# Individual State Agency Fiscal Note

|                                   |                                      |   |
|-----------------------------------|--------------------------------------|---|
| <b>Bill Number:</b> 5034 2S SB PL | <b>Title:</b> Private infrastructure | <b>Agency:</b> 303-Department of Health |
|-----------------------------------|--------------------------------------|---|

## Part I: Estimates

☒ No Fiscal Impact

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates,*

Check applicable boxes and follow corresponding instructions:

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- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

|                                |                     |                  |
|--------------------------------|---------------------|------------------|
| Legislative Contact:           | Phone:              | Date: 04/22/2011 |
| Agency Preparation: Rich Simon | Phone: 360-236-3015 | Date: 04/26/2011 |
| Agency Approval: Patty Steele  | Phone: 360-236-4530 | Date: 04/26/2011 |
| OFM Review: Ryan Black         | Phone: 360-902-0417 | Date: 04/27/2011 |

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Note: The fiscal impact has not changed since the previous fiscal note (2SSB 5034 AMH ENVI H2155.2, FN11-166).

Sections 3, 5, 13, 14, 26: Requires the Utilities and Transportation Committee (UTC) to consult with or provide information to the Department of Health in regard to wastewater companies receiving a certificate from the UTC declaring that public convenience and necessity requires wastewater management developed by the private sector. The department's Large On-Site Systems program already performs these functions as a routine activity. No new work is required by the department.

Section 6: Requires the Department of Health to regulate wastewater company receiverships. The normal regulatory role of the department's Large On-Site Sewage program covers this, and wastewater company receiverships are expected to be rare.

The department anticipates less than 100 hours of effort required in a year as a result of this bill, therefore the department considers it to have no fiscal impact.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

None

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

None

## Part III: Expenditure Detail

## Part IV: Capital Budget Impact

NONE

## Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

None

# Individual State Agency Fiscal Note

|                                   |                                      |  |
|-----------------------------------|--------------------------------------|--|
| <b>Bill Number:</b> 5034 2S SB PL | <b>Title:</b> Private infrastructure | <b>Agency:</b> 461-Department of Ecology |
|-----------------------------------|--------------------------------------|--|

## Part I: Estimates

☒ No Fiscal Impact

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates,*

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

|                                  |                     |                  |
|----------------------------------|---------------------|------------------|
| Legislative Contact:             | Phone:              | Date: 04/22/2011 |
| Agency Preparation: Vince Chavez | Phone: 360-407-7544 | Date: 04/22/2011 |
| Agency Approval: Patricia McLain | Phone: 360-407-7005 | Date: 04/22/2011 |
| OFM Review: Linda Steinmann      | Phone: 360-902-0573 | Date: 04/25/2011 |

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

There are no differences between 5034 2SSB.PL and the prior version 5034 2SSB AMH ENVI H2155.2.

Summary of 5034 2SSB.PL:

Section 2 would add definitions of wastewater company and system of sewerage to RCW 80.04.010, Public utilities - General regulations.

Section 3(5)(a) would require UTC to consult with Ecology when a replacement or upgrade of capital assets and additional connections to a sewerage system are required.

Section 5 would require UTC to consult with Ecology in determining if a wastewater company is unfit to provide services on a system of sewerage subject to Ecology's jurisdiction.

Section 6 would require Ecology to provide regulatory oversight for managing sewerage system subject to Ecology's jurisdiction.

Sections 13 and 14 would require UTC to consult with Ecology in ordering improvements to a system of sewerage subject to Ecology's jurisdiction.

Section 26 would require a wastewater company to submit and comply with a plan and schedule of improvements approved by Ecology when subject to Ecology's jurisdiction.

Under current law, Ecology approves sewerage systems and issues wastewater discharge permits to utility companies. This bill would not require Ecology to change its current policies and practices or place otherwise additional activities under chapter 173-240 WAC (Submission of plans and reports for construction of wastewater facilities). This bill would have no fiscal impact on Ecology.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

## Part III: Expenditure Detail

## Part IV: Capital Budget Impact

NONE

## **Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# LOCAL GOVERNMENT FISCAL NOTE

Department of Community, Trade and Economic Development

|                                   |                                      |
|-----------------------------------|--------------------------------------|
| <b>Bill Number:</b> 5034 2S SB PL | <b>Title:</b> Private infrastructure |
|-----------------------------------|--------------------------------------|

## Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

### Legislation Impacts:

☒ Cities: Individual cities, counties and special districts could potentially be required to act as receivers, or assume control of sewerage systems held by private wastewater companies, if the Utilities and Transportation Commission were to deem such a company “unfit.” Under such circumstances, revenue and expenditure impacts to the jurisdiction[s] could be substantial (greater than \$1 million).

☒ Counties: Same as above

☒ Special Districts: Same as above

☒ Specific jurisdictions only: Same as above

☐ Variance occurs due to:

## Part II: Estimates

☐ No fiscal impacts.

☐ Expenditures represent one-time costs:

☐ Legislation provides local option:

☒ Key variables cannot be estimated with certainty at this time: Impacts to local jurisdictions acting as receiver for, or assuming control over, private wastewater companies would depend on a variety of factors including the size and location of the sewerage system, the extent of system failure, the range of options for repairing the system and whether the company contested the taking.

### Estimated revenue impacts to:

|                      |
|----------------------|
| Indeterminate Impact |
|----------------------|

### Estimated expenditure impacts to:

|                      |
|----------------------|
| Indeterminate Impact |
|----------------------|

## Part III: Preparation and Approval

|                                      |                       |                  |
|--------------------------------------|-----------------------|------------------|
| Fiscal Note Analyst: Jaime Kaszynski | Phone: 360-725-2717   | Date: 04/25/2011 |
| Leg. Committee Contact:              | Phone:                | Date: 04/22/2011 |
| Agency Approval: Steve Salmi         | Phone: (360) 725 5034 | Date: 04/25/2011 |
| OFM Review: Alyson Cummings          | Phone: 360-902-0576   | Date: 04/25/2011 |

## **Part IV: Analysis**

### **A. SUMMARY OF BILL**

*Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.*

Sections 2 and 3 would authorize private "wastewater companies" to obtain certification from the Utilities and Transportation Commission (UTC) to own or develop a "system[s] of sewerage" that are designed for a peak flow of 27,000 to 100,000 gallons per day if treatment is by a large on-site sewage system, or to serve 100 or more customers. "Wastewater companies" would not include local government entities providing sewer service, and could not serve locations outside of urban growth areas. To be certified, a wastewater company would need to document that the local municipal corporation indicated it was unwilling or unable to provide the proposed sewerage services and that the company's proposal was consistent with the locally approved general sewer plan.

Section 5 would provide UTC authority to transfer sewage systems held by "unfit" wastewater companies to other able and willing wastewater companies.

Section 6 would authorize UTC to petition the Thurston County Superior Court to place a wastewater company in receivership. If no other entity is willing to serve as receiver, the court would "appoint [as receiver] the county or other municipal corporation whose geographic boundaries include, in whole or in part, the system of sewerage at issue." Receiver municipal corporations (Receivers) could be required to post bonds, but could not be held liable for good faith operation of the system in compliance with the court's order and other laws. Receivers could impose additional assessments on the system's customers to pay for needed health and safety improvements. If no private entity agreed to take over the system after 12 months in receivership, the court could order the municipal corporation to purchase the system, and if no purchase resulted in six months, the municipality would be required initiate a condemnation proceeding to acquire the system. In such a proceeding, the appraisal of the system would be required to reflect any reduced value resulting from needed improvements.

Section 32 provides that the above referenced sections would take effect July 1, 2012.

### **B. SUMMARY OF EXPENDITURE IMPACTS**

*Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.*

The proposed legislation would not directly impact local government expenditures, but would potentially result in substantial (greater than \$1 million) indirect expenditure impacts to one or more individual jurisdictions in the future if the UTC were to deem a wastewater company "unfit" to provide service and subsequently petition the Thurston County Superior Court to place the company in receivership to a municipal corporation (such as a city, county or water/sewer district) as provided by Section 6. The cost for a jurisdiction to assume, either by purchase or through condemnation, a failing sewerage system from a wastewater company cannot be reasonably estimated, as it would depend on a variety of factors including the size and location of the system, the extent of system failure, the range of options for repairing the system and whether the company contested the taking.

As noted in the fiscal notes prepared by the Administrative Office of the Courts (AOC) and the UTC, such occurrences would likely be rare as only three drinking-water companies have been placed in receivership since 1992. The UTC assumes wastewater company failures would not occur within the fiscal note timeframe of three biennia, so no immediate local impact is anticipated. However, if a company were to be placed in receivership or condemned by a local government at some future date, the expenditure could potentially exceed the revenue generated from the company's customers.

A 2008 study produced by the Department of Ecology examined several case studies of small community wastewater systems that required major assistance to resolve environmental quality issues caused by system overloads or failures. Costs to repair or replace the systems, which varied in size from several hundred to several thousand connections, ranged from \$2.5 million to over \$30 million. Although ratepayers funded portions of the projects through rate increases, each project required significant external funding from state and/or federal programs.

### **C. SUMMARY OF REVENUE IMPACTS**

*Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.*

The proposed legislation would not directly impact local government revenue. However, if in the future one or more individual jurisdictions serves as receiver for (or acquires) a wastewater company pursuant to court order, the jurisdiction[s] would potentially experience substantial (greater than \$1 million) revenue impacts. For example, Section 6(5) provides that a receiver would be authorized to "impose reasonable assessments on the customers of the system to recover expenditures for improvements necessary for the public health and safety." As noted above, any such impacts would be highly situational so cannot reasonably be estimated.

## SOURCES

Utilities and Transportation Commission fiscal note

Administrative Office of the Courts fiscal note

Association of Washington Cities

Washington State Association of Counties

"Small Community Wastewater Case Studies and Recommendations" (Department of Ecology, November 2008)